

**IN THE UNITED STATE DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

**IN RE: AMERICAN MEDICAL SYSTEMS, INC.
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION**

MDL 2325

BRIDGET R. HAMBY,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-cv-07902

AMERICAN MEDICAL SYSTEMS, INC.,

Defendant.

MEMORANDUM OPINION AND ORDER

On January 2, 2019, plaintiff's counsel filed a Suggestion of Death noting the death of plaintiff Bridget Hamby during the pendency of this action [ECF No. 14]. Defendant filed a Motion to Dismiss Plaintiff's Complaint with Prejudice requesting dismissal of this case because the deceased plaintiff has not been substituted [ECF No. 16], and counsel for plaintiff has not responded to the motion.

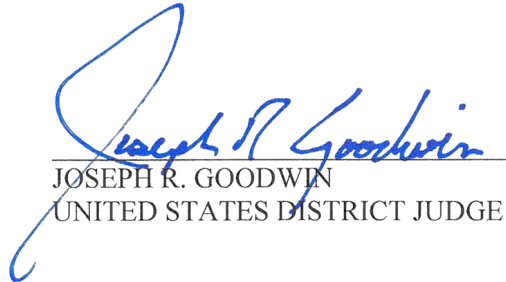
Pretrial Order ("PTO") # 259 filed in *In re: American Medical Systems, Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, 2:12-md-2325 ("AMS 2325") [ECF No. 6347] outlines the procedures the court requires to either substitute a deceased party pursuant to Federal Rule of Civil Procedure 25(a), or to dismiss the deceased party from the civil action because of a failure to properly serve and substitute the deceased party.

The court **FINDS** that the Suggestion of Death did not comply with Rule 25(a) as it was never properly served upon non-parties or a personal representative of the estate. Regardless, the

time period as set forth in PTO # 289 to substitute a party has since passed. Therefore, the court **ORDERS** that this case is **DISMISSED** without prejudice and **STRICKEN** from the docket of this court. Any pending motions are **DENIED as moot**.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 18, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE